

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Registration of Third Party Natural Gas Procurement Service Providers, Known as “Core Transport Agents,” pursuant to Public Utilities Code Sections 980-989.5 to Regulate non-rate matters, including Registration Standards, Complaint Resolution Practices, and Minimum Standards of Consumer Protection.

Rulemaking 14-03-002
(Filed March 13, 2014)

**DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE FOR
SUBSTANTIAL CONTRIBUTION TO DECISION 14-08-043**

Intervenor: The Greenlining Institute (Greenlining)	For contribution to Decision (D.) 14-08-043
Claimed: \$14,692.50	Awarded: \$11,084.50 (24.6% reduction)
Assigned Commissioner: Carla J. Peterman	Assigned ALJ: Julie M. Halligan

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	This decision adopts registration standards for Core Transport Agents (CTAs) who supply residential and small commercial end-use customers (otherwise referred to as “core customers”) with natural gas.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	n/a	Verified
2. Other specified date for NOI:	5/27/14	Verified
3. Date NOI filed:	5/27/14	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	Verified
6. Date of ALJ ruling:	3/29/2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.10-11-002	A.10-11-002
10. Date of ALJ ruling:	7/16/2013	Effective date 7/11/2013; issue date 7/16/2013.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-08-043	Verified
14. Date of issuance of Final Order or Decision:	9/2/2014	Verified
15. File date of compensation request:	10/17/2014	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
B.2-3	Rule 17.1(a)(3) of the Rules of Practice and Procedure states that NOI may be filed 30 days after the time for filing the first responsive pleading in a proceeding. Comments on the Order Instituting Rulemaking were due on April 25, 2014. The 30 th day fell on Sunday, May 25, and Monday, May 26 was the Memorial Day holiday. Thus, per Commission Rule 1.15, the NOI was due on May 27, 2014.	The OIR was issued March 19, 2014. Comments were due 30 days later on April 18, 2014, and reply comments 7 days later, on 4/25/14. The thirty day deadline was May 25, 2014, and accounting for the weekend and holiday the NOI filing date would be May 27 th , 2014. The document is considered responsive to the OIR, and therefore timely.

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).**

<p>performance” of CTA responsibilities, including situations some parties alleged were outside the CTA’s control, such as general market failure, or changes in legal or regulatory conditions. Greenlining argued that CTAs are still responsible to their paying customers under these circumstances.</p> <p>Greenlining suggested that the Commission recognize that complaints may arise from the actions of third party contractors, and should consider tracking these instances separately to determine whether there is a pattern of problems.</p> <p>While it deferred questions of customer remedies and complaint tracking to the next phase, D. 14-08-043 did note that all CTAs remain responsible for the actions of their third party contractors, consistent with the arguments of Greenlining and other parties.</p> <p>*****</p> <p>Greenlining supported arguments that a customer who has experienced fraud or non-performance by the CTA should be able to terminate his/her contract with the CTA and return to taking service from the utility, without incurring any penalties or fees, and without having to pay any further contract costs to the CTA. Greenlining also argued that the Consumer Affairs</p>	<p><i>Reply Comments</i>, 4/25/14, pp. 10-11.</p> <p>D.14-08-043, p. 38.</p> <p><i>Reply Comments</i>, 4/25/14, pp. 11-12.</p>	
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<p>“grandfather” into registration and evade the processes being developed in this proceeding. Greenlining demonstrated that SB 656 intended both existing and new CTAs to be subject to identical registration rules.</p> <p>D.14-08-043 sets forth interim registration requirements and notes that <i>each</i> CTA intending to provide service in California must register in the same manner. Thus, the decision agreed with Greenlining and other parties that all CTAs must register and that “grandfathering” should not be permitted.</p> <p>*****</p> <p>Greenlining supported arguments that the Commission’s authority to suspend or revoke a CTA’s registration should include instances in which the conduct in question was that of a third party contractor. The language of Sections 983.5 and 981 clearly indicate that the Commission should hold the CTA responsible for the actions of its agents, its employees, and its third party contractors. D.14-08-043 agreed.</p>	<p>D.14-08-043, pp. 8, 27</p> <p><i>Reply Comments</i>, 4/25/14, pp. 5-6.</p> <p>D.14-08-043, p. 13, COL 43.</p>	
<p><u>C. Bill Comparisons</u></p> <p>Greenlining argued that bill comparisons should be designed first and foremost to be easily understandable to the customer – costs should be clearly identified and should be</p>	<p><i>Reply Comments</i>, 4/25/14, pp. 17-18.</p>	<p><i>See III.D.CPUC Disallowances and Adjustments, Item 2.</i></p>

[illegible]

<p>process for determining which convictions and sanctions constitute potential grounds for denial must be public and transparent, and that the final list must be made publicly available.</p> <p>D.14-08-043 acknowledged that nuance and care must be exercised in crafting a consumer-protective but narrowly tailored non-discriminatory background check policy, and noted all of Greenlining's recommendations on how to do so. It directed the Directors of Energy Division and Safety and Enforcement Division, the Executive Director, and the Chief ALJ to develop the necessary procedures to ensure fair and balanced results.</p>	<p><i>Response to OIR</i>, 4/18/14, p. 6.</p> <p>D.14-08-043, pp. 8-11.</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
c. If so, provide name of other parties: The Utility Reform Network (TURN), Center for Accessible Technology		Accepted
d. Intervenor's claim of non-duplication: In this proceeding, Greenlining was the only party representing California's communities of color, and as such took a lead role on issues that disproportionately impact our communities, such as in-language communication and the issue of proper use of criminal background checks. In this way, Greenlining avoided duplication by		Accepted

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>taking unique positions among the other intervenors.</p> <p>Where Greenlining's position overlapped with that of other intervenors, Greenlining minimized its participation – and thus minimized duplication – by supporting the comments of others rather than making our own complete arguments. Our time records support this, reflecting time spent discussing positions with other parties to coordinate responses.</p>	
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C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
	<p>On some of the issues described above, Greenlining responded to a proposal brought by another party that would impact the constituency Greenlining represents (for example, bill comparisons, involuntary return issues, etc.). These issues ended up being deferred to the next phase of the proceeding. However, at the time, there was no way of knowing whether the Commission would act or defer, making it reasonable for Greenlining to respond to the proposals because there was a chance the Commission would choose to act. Greenlining submits that even though the issues did not receive a final decision on the merits here, our time spent responding to proposals put onto the record by other parties that would, if they were adopted by the Commission, substantially impact our constituency, was reasonable and should be considered a substantial contribution.</p>	<p>Greenlining should request compensation on the following deferred issues, when the Commission resolves them. A) tracking and resolution of complaints, B) involuntary return of customers due to failure of the Core Transport Agents (CTA), C) Customer contracts under CTA fraud or non-performance, and D) bill notice and customer presentation.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
<p>Greenlining's modest cost of participation in this proceeding should be found quite reasonable, especially as compared to the amount of money customers – particularly vulnerable customers – will save by being protected from predatory "bad actor" Core Transport Agents in the future. It was demonstrated that some of these bad actors target low-income, limited English proficient customers – the very constituency Greenlining represents. When subject to the volatility of the natural gas market, unprotected by basic consumer protections or even a solid grasp of the language, these customers could wind up paying hundreds of dollars a year in higher gas prices than they would have incurred had they been able to make a wiser consumer choice. In the aggregate, these overpayments could add up to hundreds of thousands of dollars, across California, every year.</p>	<p>Accepted</p>

<p>The protections that Greenlining helped to craft in this proceeding will protect these and other customers from such overpayments, in a total amount that far exceeds the modest cost of Greenlining's advocacy.</p> <p>Additionally, Greenlining was the only party to advocate for fair and reasonable background check policies, which will help to ensure that access to this area of the natural gas marketplace is available on a non-discriminatory basis to those who wish to enter. It is difficult to put a price tag on the value of non-discriminatory background check policy, but Greenlining contends that the value far exceeds the modest cost of Greenlining's participation in this portion of the proceeding.</p>											
<p>b. Reasonableness of hours claimed:</p> <p>Considering the breadth of issues discussed in this initial phase of the proceeding, Greenlining's hours are quite reasonable. Greenlining largely limited its participation, especially the aspects that took more time to compile, to issues directly impacting its constituency that were not addressed by other parties. As discussed above, Greenlining coordinated some of its work with the other intervenors, thus decreasing the amount of time Greenlining would spend on its own work, and increasing the reasonableness of its time spent.</p> <p>As discussed above, Greenlining did spend a limited amount of time in this proceeding on issues that were ultimately deferred to the next phase of the proceeding. Greenlining has demonstrated, above, that this time was reasonable, and the Commission should agree as it considers this request. The work done here will inform, and thus make more efficient, Greenlining's participation in the next phase.</p> <p>It should be noted that Greenlining's lead counsel for this proceeding, Mr. Gallardo, left Greenlining early in the summer, leaving a shortage in staffing when the Proposed Decision was issued. As such, and since Greenlining's issues were favorably treated in the PD, Greenlining did not file comments on the PD, as an efficiency measure for both Greenlining staff and for intervenor compensation purposes.</p>	<p>Accepted, Greenlining should request compensation on the deferred issues after the Commission has issued a decision which resolves on those issues.</p> <p><i>See III. CPUC Disallowances and Adjustments, Items 1 and 2.</i></p>										
<p>c. Allocation of hours by issue:</p> <table border="1" data-bbox="240 1480 1026 1659"> <tr> <td>A. Consumer Protections</td><td>26.9%</td></tr> <tr> <td>B. Registration Requirements</td><td>32.5%</td></tr> <tr> <td>C. Bill Comparisons</td><td>10.2%</td></tr> <tr> <td>D. Criminal Background Checks</td><td>19.3%</td></tr> <tr> <td>E. General/Procedural</td><td>11.1%</td></tr> </table>	A. Consumer Protections	26.9%	B. Registration Requirements	32.5%	C. Bill Comparisons	10.2%	D. Criminal Background Checks	19.3%	E. General/Procedural	11.1%	<p>We reduce the hours claimed in Consumer Protections (A) by 3/5 and in Bill Comparisons (C) by 100% as the decision deferred these issues. Greenlining should request compensation for these hours when the Commission issues a decision resolving them.</p>
A. Consumer Protections	26.9%										
B. Registration Requirements	32.5%										
C. Bill Comparisons	10.2%										
D. Criminal Background Checks	19.3%										
E. General/Procedural	11.1%										

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Enrique Gallardo	2014	34.2	\$400	See Comment 3 below	\$13,680	25.18	\$400 ²	\$10,072.00
Subtotal: \$13,680.00						Subtotal: \$10,072.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2014	5.5	\$115	See Comment 4 below	\$632.50	5.5	\$115 ³	\$632.50
Enrique Gallardo	2014	1.9	\$200	See Comment 3 below	\$380	1.9	\$200	\$380.00
Subtotal: \$1,012.50						Subtotal: \$1,012.50		
TOTAL REQUEST: \$14,692.50						TOTAL AWARD: \$11,084.50		
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ⁴		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Enrique Gallardo ⁵		12/9/1997		191670		No		
Stephanie Chen		8/23/2010		270917		No		

² See D.15-03-049.

³ Application of 2% Cost-of-Living-Adjustment (COLA) for 2013 per ALJ-287 and 2.58% COLA for 2014 per Resolution ALJ-303; we set Chen's 2014 rate at \$230. We apply a claim preparation rate equal to ½ of Chen's 2014 normal rate.

⁴ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

⁵ At the time of the filing and during the period for which the work occurred, Gallardo was an active member of the California State Bar with no actions affecting eligibility.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Time Recording for the Greenlining Institute's Attorneys
2	Certificate of Service
3	The last Commission approved rate for Enrique Gallardo was \$390, for work done in 2013. To date, the Commission has not issued a Resolution setting intervenor rates for 2014. However, assuming that the 2014 Resolution would grant a 2% COLA, as the 2013 Resolution did, it would result in a 2014 rate of \$400 for Mr. Gallardo (when rounded to the nearest \$5 increment). Greenlining submits that this is a reasonable rate to approve for Mr. Gallardo's work in 2014.
4	The last Commission approved rate for Stephanie Chen was \$220 for work done in 2012 (D.13-10-033). Resolution ALJ-287 ordered a 2% Cost of Living Adjustment (COLA) for 2013 rates, which would set the rate for Ms. Chen's work in 2013 at \$225 (when rounded to the nearest \$5 increment). To date, the Commission has not issued a Resolution setting intervenor rates for 2014. However, assuming that the 2014 Resolution would grant a 2% COLA, as the 2013 Resolution did, it would result in a 2014 rate of \$230 for Ms. Chen. Greenlining argues that this is a reasonable rate to approve for Ms. Chen's work in 2014.

D. CPUC Disallowances and Adjustments:

Item	Reason
(1) Reduction of Hours for Consumer Protection (A) Issues Deferred to a Later Phase.	<p>Greenlining requests compensation in this claim for substantial contributions on five consumer protection issues in D.14-08-043: (1) a formal complaint process, including tracking and resolution, (2) Involuntary return of customers due to failure of the Core Transport Agents (CTA), (3) Non-performance of CTA responsibilities, and (4) Customer contracts under CTA fraud or non-performance, and (5) grace periods for cancelling CTA contracts.</p> <p>The Commission deferred items 1, 2, and 4 and ruled on Items 3 and 5, agreeing with Greenlining's positions. D.14-08-043 found that CTAs retained responsibility for their third party contractors (Item 3), and adopted a 30-day grace period, as Greenlining proposed (Item 5).</p> <p>We reduce Greenlining's hours by 3/5, as the Commission has not resolved three of the five issues for which Greenlining claims substantial contribution, and which have been deferred to a later phase. We, therefore, reduce Gallardo's 2014 hours by 5.52 hours for Consumer Protection issues.</p> <p>Greenlining should apply for compensation if and when the Commission resolves the following issues: tracking and resolution of complaints, "involuntary return" of customers to utility service, and recommendations on customers who experience fraud or non-performance.</p>

(2) Reductions for Bill Comparisons Issue (C) Deferred to a Later Phase	We reduce this claim for the 6.6 hours of work under Category (C), Bill Comparisons. D.14-08-043 deferred issues of notice to customers and other customer presentation issues to the next phase of the proceeding. Greenlining should apply for compensation if and when the Commission resolves this issue.
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PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes
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FINDINGS OF FACT

1. Greenlining has made a substantial contribution to Decision 14-08-043.
2. The requested hourly rates for Greenlining's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$11,084.50.

CONCLUSIONS OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.
2. The claim should be paid from the Intervenor Compensation Fund.
3. Comments on today's decision should be waived, and the decision should be made effective immediately.

ORDER

1. The Greenlining Institute shall be awarded \$11,084.50.
2. Within 30 days of the effective date of this decision, the Commission's Fiscal Office shall disburse the awarded compensation from the Commission's Intervenor Compensation Fund. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning April 10, 2015, the 75th day after the filing of The Greenlining Institute's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1408043		
Proceeding(s):	R1403002		
Author:	ALJ Halligan		
Payer(s):	CPUC Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Greenlining Institute	10/17/14	\$14,692.50	\$11,084.50	N/A	Reduction for work on Consumer Protection (A) and Bill Comparisons (C) which were deferred. Greenlining should request for compensation on the issues if and when the CPUC adopts their recommendations.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Enrique	Gallardo	Attorney	Greenlining	\$400	2014	\$400
Stephanie	Chen	Attorney	Greenlining	\$230/115	2014	\$230/115

(END OF APPENDIX)